

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

THOMAS HERBER, et al.,

Plaintiffs,

vs.

Civ. No. 02-577 BB/WWD ACE
Cons. With 02-947 BB/WWD

UNION PACIFIC RAILROAD COMPANY,
a Delaware Corporation,

Defendant/Third-Party Plaintiff,

vs.

BRIAN KURTZ TRUCKING, LTD., et al.,

Third-Party Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Union Pacific Railroad Company's Motion to Compel Responsive Answers to Interrogatories and Production of Documents from Third Party Defendant U.S. Xpress, LSG (hereinafter Xpress) [docket no. 237]. I have reviewed the submissions of counsel and have skipped back and forth between the interrogatories and requests for production which were sprinkled with cross-references and what appears to be a "Keno" type numerical order. In the numerical order set out below, Defendant Union Pacific Railroad Company seeks an order compelling full and complete answers to interrogatories numbered 5, 6, 20, 21, 23, 9, 10, 7, 8, 4, 28, 29, and 32. Defendant Railroad also seeks an order from the Court requiring production in connection with its requests for production numbered 3, 16, 17, 19, 25,

26, 28, 6, 7, 4, 9, 5, 2, 21, and 22. In any event, I will require Xpress to furnish full and complete answers to interrogatories numbered 4 (not by reference), 8 (identifying individual consultants by name and address), 9 (if there are any more), 10 (for pre-March 9, 2002 information if not connected to an attorney), 20, 21 (certificates and dates thereof), 23 (at least cite applicable regulations), 28 (update), and 29 (update). Excluding any continuing duty imposed by Fed. R. Civ. P. 26(e), no further responses will be required now to interrogatories numbered 5, 6, 7, and 32.

Xpress shall make production as called for whether it is the initial production or a supplement to a previous production in connection with requests for production numbered 3, 5, 6, 16, 17, 21, 26, and 28. Excluding any continuing duty imposed by Fed. R. Civ. P. 26(e), no further production will be required now with respect to requests for production numbered 2, 4, 7, 9, 19, 22, and 25.

The responses and production ordered above shall be served on or delivered to counsel on or before February 25, 2003.

No attorney fees will be awarded in connection with this motion; however, if necessary, the Court may revisit this matter in the course of this litigation.

Discovery shall proceed in accordance with the foregoing.

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE